

## REMARKS

This Response is submitted in reply to the Office Action dated September 25, 2007, taking into account the telephonic interview courteously granted on December 5, 2007. Applicant has amended claims 1, 2, 37, 38, 47, 48 and 49. Applicant has added new independent claim 88 and new dependent claims 52-87 and 89-93. Claims 13-23 and 25-36 remain canceled. No new matter has been added by these amendments. A Petition for a Three Month Extension of Time and a Supplemental Information Disclosure Statement are submitted herewith. The Commissioner is hereby authorized to charge deposit account 02-1818 for any fees due in connection with the filing of this Response and the Supplemental Information Disclosure Statement.

Applicant has amended the title and abstract of this application so they more closely correspond to the pending claims. No new matter has been added by such amendments. Also, Applicant has updated the cross reference to related applications section of this application.

The Office Action rejected claim 1 under 35 U.S.C. 103(a) as being unpatentable over Dickinson et al. (U.S. Patent No. 6,287,197; hereafter "Dickinson").

Although claims 2, 4-6 and 9-11 were mentioned in the body of the rejection, claims 2, 4-6 and 9-11 were not listed in the statement of rejection. It appears that the Office Action intended to reject claims 2, 4-6 and 9-11 under 35 U.S.C. 103(a) as being unpatentable over Dickinson. Applicant has responded accordingly.

The Office Action stated that Dickinson discloses "a video game wherein a player may select a theme (col. 6, lines 5-6), each theme having a plurality of symbols that are visually different (Fig. 4) but perform an identical function in the game." The Office Action also stated that "Dickinson does not specifically disclose a player placing a wager upon the outcome of the game." However, the Office Action deemed that placing a wager for Dickinson's coin-operated gaming device would be obvious to one skilled in the art at the time of the invention. According to the Office Action, Dickinson discloses that the game may be implemented in "virtually any video-game which is to display multiple images," which, the Office Action reasoned, could include slot machine-type casino games wherein a player places a wager in order to initiate the game.

### **Amendments**

Applicant respectfully disagrees with such rejection and interpretation. Video games are different than slot machines and other wager-based gaming devices. For example, as recognized by the Office Action, video games are not operable upon wagers. At least for this reason, the rejection is improper.

Nonetheless, to advance prosecution of this application, Applicant has amended certain claims. Specifically, amended independent claim 1 recites: "a game operable for one or more plays based upon placement of a wager which corresponds to one of: (a) a first wager level; and (b) a second wager level which is greater than the first wager level" and "at least one memory device which stores a plurality of instructions, which when executed by the at least one processor, cause the at least one processor to operate with the display device and the at least one input device to: (a) receive an input associated with the placed wager; (b) determine whether the placed wager corresponds to one of the first wager level and the second wager level; (c) display the first game display interface if the placed wager corresponds to the first wager level; (d) display the second game display interface if the wager corresponds to the second wager level; (e) operate the single play of the game; (f) determine an outcome of the single play; and (g) indicate the determined outcome."

Dickinson does not disclose such elements. Moreover, it would not be obvious or readily apparent to one skilled in the art to modify Dickinson to include different wager levels, and to display a first or second game display interface based on the placed wager corresponding to one of the wager levels, as in amended independent claim 1. For at least the reasons set forth above, amended independent claim 1 is patentable over Dickinson and in condition for allowance.

Dependent claims 2, 4-6 and 9-11 depend from amended independent claim 1 and are patentable over Dickinson for at least the reasons set forth above with respect to amended independent claim 1.

The Office Action rejected claims 3, 12, 24, and 37 under 35 U.S.C. 103(a) as being unpatentable over Dickinson in view of Roffman et al. (U.S. Patent No. 6,375,568; hereafter "Roffman").

Although claims 38-42, 45, and 46 were mentioned in the body of the rejection, claims 38-42, 45, and 46 were not listed in the statement of rejection. It appears that the Office Action intended to reject claims 38-42, 45, and 46 under 35 U.S.C. 103(a) as being unpatentable over Dickinson and Roffman. Applicant has responded accordingly.

Amended independent claim 37 recites: “a game operable for one or more plays based upon placement of a wager which corresponds to one of a plurality of different wager levels” and “at least one processor configured to determine an event that causes the display device to activate one of the first and second interfaces for the play of said game, the event being based on the wager level of the placed wager.”

Neither Dickinson nor Roffman disclose such elements. Roffman discloses “theme games” which correspond to features of a wagering game, such as a slot machine reel game. The results of the wagering game influence the results of the theme game as the wagering game is being played. However, Roffman does not disclose different wager levels, wherein a first or second interface is displayed or activated based on the wager level of a placed wager, as in amended independent claim 1 or 37. For at least the reasons set forth above, Roffman does not remedy Dickinson with respect to such elements. Accordingly, amended independent claims 1 and 37 are patentable over the proposed combination of Dickinson and Roffman and in condition for allowance.

Dependent claims 3, 12, 24, 38-42, 45, and 46 depend from one of amended independent claims 1 or 37. Dependent claims 3, 12, 24, 38-42, 45, and 46 are patentable over Dickinson for at least the reasons set forth above with respect to amended independent claims 1 and 37.

The Office Action rejected claims 7, 8, 48, 49, and 51 under 35 U.S.C. 103(a) as being unpatentable over Dickinson in view of Nakagawa et al. (U.S. Patent No. 6,168,519; hereafter “Nakagawa”).

Amended independent claim 48 recites: “a game operable for one or more plays based upon a wager placed at one of a plurality of different wager levels” and “at least one processor configured to select either one of the first and second interfaces for the single play, the selection depending upon the wager level.”

Neither Dickinson nor Nakagawa disclose such elements. Nakagawa discloses a soccer video gaming system, which is not operable upon a wager. Moreover, Nakagawa does not disclose different wager levels, wherein a first or second interface is displayed or selected based upon the wager level of a placed wager, as in amended independent claim 1 or 48. For at least the reasons set forth above, Nakagawa does not remedy Dickinson with respect to such elements. Accordingly, amended independent claims 1 and 48 are patentable over the proposed combination of Dickinson and Nakagawa and in condition for allowance.

Dependent claims 7, 8, 49, and 51 depend from one of the foregoing amended independent claims. Dependent claims 7, 8, 49, and 51 are patentable over the proposed combination of Dickinson and Nakagawa for at least the reasons set forth above with respect to amended independent claims 1 and 48.

The Office Action rejected claims 43, 44, and 50 under 35 U.S.C. 103(a) as being unpatentable over Dickinson in view of Roffman and further in view of Nakamura.

Dependent claims 43, 44, and 50 depend from one of the foregoing amended independent claims and are patentable over the proposed combination of Dickinson, Roffman and Nakagawa for at least the reasons set forth above with respect to amended independent claims 37 and 48.

The Office Action rejected claim 47 under 35 U.S.C. 103(a) as being unpatentable over Dickinson in view of Dumont (U.S. Patent Application Publication No. 2004/0009804).

Amended independent claim 47 recites: "a game operable for one or more plays based upon a placement of a wager which corresponds to one of a plurality of different wager levels" and "at least one processor configured to select either one of the first and second interfaces for the single play, the selection depending upon the wager level of the placed wager."

Neither Dickinson nor Dumont disclose such elements. Dumont discloses a lottery game having a theme. However, the theme is not based on a wager for the lottery game. Dumont does not disclose different wager levels, wherein a first or second interface is selected based upon the wager level of a placed wager, as in

amended independent claim 47. For at least the reasons set forth above, Dumont does not remedy Dickinson with respect to such elements. Accordingly, amended independent claim 47 is patentable over the proposed combination of Dickinson and Dumont and in condition for allowance.

New claims 52-87 depend from one of the foregoing independent claims and are patentable over the cited prior art for similar reasons as set forth above with respect to independent claims 1, 37, 47 and 48 in addition to the elements recited in those dependent claims. New independent claim 88 and dependent claims 89-92 are patentable over the cited prior art for similar reasons as set forth above with respect to independent claims 1, 37, 47 and 48. Accordingly, Applicants submit that new claims 52-93 are in condition for allowance.

### **Support**

This U.S. Patent Application No. 10/659,093, filed on September 9, 2003 ("Subject Application") is a continuation-in-part of U.S. Patent Application No. 09/602,331, filed on June 23, 2000 ("Parent Application"). The Subject Application provides support for the subject matter defined by the foregoing amendments. The following paragraphs from the Subject Application are examples of such support:

In an alternative embodiment, the gaming device automatically changes display interfaces without the player's input. Such automatic change can occur: (i) randomly based on a non-game event; (ii) randomly based on a game event; (iii) based on the player's wager or a component thereof; (iv) based on credits lost or accumulated; (v) based on a number of times the player has played the gaming device consecutively; (vi) based on a tabulation maintained by a player tracking card; (vii) based on a game theme (e.g., to follow the story line of the game theme); or (viii) any combination thereof. (Specification, Page 3, Line 29 – Page 4, Line 4).

Entry 186 shows that gaming device 10 can switch interfaces based on the player's wager. The wager dependency can include the player's overall wager or a component thereof. For example, the interface displayed can depend upon the number of paylines wagered or the player's wager per payline. Alternatively, the player's total wager determines which of a plurality of interfaces is played. The dependency can be figured on a game by game basis or accumulated over a plurality of game plays. (Specification, Page 31, Lines 17-23).

Such paragraphs are not found in the Parent Application.

**Joshi I and Joshi II References**

The October 26, 2005 Office Action cited Joshi (U.S. Patent Application Publication No. 2002/0151349; hereafter "Joshi I") as prior art with respect to certain claims as originally filed. Also, Applicant's August 9, 2006 Information Disclosure Statement for the Subject Application cited Joshi (U.S. Patent No. 6,974,385; hereafter "Joshi II"). To expedite the prosecution of this application, Applicant has analyzed Joshi I and Joshi II with respect to the subject matter defined by the foregoing amended claims.

Joshi I discloses:

Referring now to FIG. 17, a gaming machine system architecture 150 is illustrated that includes a controller 152 that is linked to a plurality of gaming machines 154a-154e. The system architecture 150 is useful for determining which type of visual elements, audio elements, or other types of player appeal features are the favorite among players. In the system architecture 150, the wager inputs for each of the plurality of gaming machines 154a-154e are monitored by the controller 152. The controller 152 may intermittently download information on the wager inputs at selected times or continuously download information for real time updates. A correlation exists between the favorite visual elements, audio elements, or other player appeal features and the total amount of wager inputs for the associated machine on which they are displayed and/or broadcasted. When the controller 152 determines that a particular player appeal feature is the favorite of players, it then takes the necessary steps to inform a particular one of the gaming machines 154a-154e, which is not displaying or broadcasting the favorite visual and/or audio elements, to begin playing the favorite visual and/or audio element. In other words, the amount of wager input to each machine is a feedback mechanism by which the controller 152 determines which of the visual elements, audio elements, and/or other player appeal features is the favorite, thereby causing that favorite to be displayed and/or broadcasted more frequently on other machines 154a-154e. For example, the favorite visual element or audio element may be displayed for more than 75% of any day or 75% of any week (Paragraph [0072]).

Joshi II discloses:

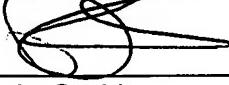
Referring now to FIG. 17, a gaming machine system so architecture 150 is illustrated that includes a controller 152 that is linked to a plurality of gaming machines 154a-154e. The system architecture 150 is useful for determining which type of visual elements, audio elements, or other types of player appeal features are the favorite among players. In the system architecture 150, the wager inputs for each of the plurality of gaming machines 154a-154e are monitored by the controller 152. The controller 152 may intermittently download information on the wager inputs at selected times or continuously download information for real time updates. A correlation exists between the favorite visual elements, audio elements, or other player appeal features and the total amount of wager inputs for the associated machine on which they are displayed and/or broadcasted. When the controller 152 determines that a particular player appeal feature is the favorite of players, it then takes the necessary steps to inform a particular one of the gaming machines 154a-154e, which is not displaying or broadcasting the favorite visual and/or audio elements, to begin playing the favorite visual and/or audio element. In other words, the amount of wager input to each machine is a feedback mechanism by which the controller 152 determines which of the visual elements, audio elements, and/or other player appeal features is the favorite, thereby causing that favorite to be displayed and/or broadcasted more frequently on other machines 154a-154e. For example, the favorite visual element or audio element may be displayed for more than 75% of any day or 75% of any week (Col. 12, Line 49 to Col. 13, Line 10).

Neither Joshi I nor Joshi II disclose a plurality of different wager levels, wherein a first interface or a second interface is displayed, selected or indicated based upon the wager level of a placed wager for a single play of a game. Accordingly, neither Joshi I nor Joshi II disclose the claimed subject matter of independent claim 1, 37, 47, 48 or 88 submitted with this Response. For the foregoing reasons, Applicant respectfully submits that all of the claims submitted with this Response are in condition for allowance.

An earnest endeavor has been made to place this application in condition for allowance, and such allowance is courteously solicited. If the Examiner has any questions related to this Response, Applicant respectfully requests that the Examiner contact the undersigned.

Respectfully submitted,

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